

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

INCREDIBLEBANK,
Plaintiff,

v.

PROVOCATIVE (O.N. 1248080);
JONATHAN COHEN; and
OUTERLIMITS POWERBOATS INC,
Defendants.

C.A. No. 22-445-JJM-PAS

ORDER

This matter is before the Court on the Motion for Order of Sale and for Order Granting Plaintiff the Right to Credit Bid filed by IncredibleBank (ECF No. 36) and the Report and Recommendations (R&R) of Magistrate Judge Patricia A. Sullivan. ECF No. 38. No objection was filed to either the motion or the R&R. After reviewing the papers, the Court ADOPTS the R&R and GRANTS the Motion for the reason stated in the R&R, and further ORDERS as follows:

1. That the United States Marshal for the District of Rhode Island is directed to sell the Secured Property, including the Vessel, Provocative (O.N. 1248080, NO. NV9272LC), her engines, tackle, apparel, appurtenances, etc., at public auction for the highest price that can be obtained;
2. That the public auction shall take place within thirty days of the issuance of this Court's Order at a date/time acceptable to the United States Marshal at

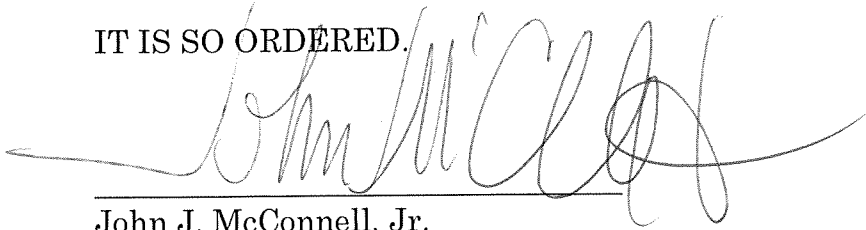
the facility of Third-Party Custodian, Outerlimits, at 3 Minturn Farm Road, Bristol, Rhode Island 02809, where the Secured Property is stored;

3. That Incredible shall give notice of the date, time, and place of the sale to (i) the owner and all lien and mortgage claimants of record by first class mail or Federal Express and (ii) the public-at-large by advertising same at least once per week for two (2) successive weeks in *The Providence Journal*, a newspaper of general circulation within this District, the first advertisement in the publication to be at least fourteen days prior to the Court ordered sale date pursuant to DRI LAR E(10)(a);
4. That, in reliance on Incredible's agreement to pay or make provision for all claims adjudged to be senior in priority, Incredible shall be allowed to credit bid the amount of the indebtedness, up to \$224,184.73, which is the principal owed by Defendant, Jonathan Cohen, at the public sale and deposit the credit amount with the United States Marshals in lieu of cash or other funds should it be the highest bidder;
5. That the United States Marshal shall require at the sale that the highest bidder, except for Incredible which shall be entitled to credit bid, deposit with the United States Marshal on the day of sale \$10,000.00 in certified check payable to the United States Marshals for the District of Rhode Island, with the balance to be paid at or before the confirmation hearing scheduled by the Court, provided that if objection to the sale is filed pursuant to DRI LAR E(10)(f), the balance shall be paid in accordance with DRI LAR E(10)(b)(3);

6. That the United States Marshals shall pay into the Registry of the United States District Court for the District of Rhode Island any and all monies received as a result of the sale and the parties who have asserted claims or liens to such proceeds, including Defendant Jonathan Cohen and Maritime Lien Claimant and Third-Party Custodian Outerlimits, will be provided an opportunity to present and argue their case regarding priority and entitlement to such proceeds;
7. That the United States Marshals shall prepare such documents and reports as may be necessary for the confirmation of the sale by the United States District Court;
8. That a confirmation hearing shall be held at the United States District Court at Providence, Rhode Island or remotely, on a date and time to be established by the Court, which shall be after the objection period provided for by LAR E(10)(f);
9. That Incredible shall inform any successful bidder, not a party to this case, of the date and time of the confirmation hearing;
10. That, as allowed in the Security Agreement and this Court's Order at ECF No. 35 at 2, at any time prior to the commencement of the Court ordered public auction by the United States Marshals Service, Incredible may cancel the Court ordered public auction and otherwise "sell and convey title [to the Vessel] as set out in the Security Agreement."

Incredible shall submit a new form of Order that conforms to the foregoing.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "John J. McConnell, Jr.", written over a horizontal line.

John J. McConnell, Jr.
Chief United States District Judge

March 7, 2024